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DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Part 53

RIN 2900-AO54

Technical Revisions - State Veterans Homes

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) amends its regulations governing VA assistance in hiring and retaining nurses in State Veterans Homes. These regulations must be updated because of recent changes to the Veterans Health Administration (VHA) organizational structure, which reassigned certain administrative duties of the Chief Consultant of the Office of Geriatrics and Extended Care to the Director of the Office of Geriatrics and Extended Care Operations.

DATES: Effective Date: This final rule is effective [insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Lisa Minor, Chief, Institutional Care Programs, Geriatrics and Extended Care Operations (10NC4), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 461-6782. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION:

VHA recently revised its organizational structure. Under VHA's new organizational structure, the Secretary of Veterans Affairs has delegated management and operations duties for State Veterans Homes to the Director of the Office of Geriatrics and Extended Care Operations through the Under Secretary for Health. The Secretary had formerly delegated this authority to the Chief Consultant of the Office of Geriatrics and Extended Care through the Under Secretary for Health. Consequently, VHA is revising its regulations to reflect the new delegation.

Sections 53.10, 53.11, 53.30, 53.40, and 53.41 of title 38 of the Code of Federal Regulations will be revised to name the Director of the Office of Geriatrics and Extended Care Operations as the person with the management and operations authority for State Veterans Homes. VA's internal mailbox code will also be removed from §§ 53.20 and 53.40.

Administrative Procedure Act

This final rule pertains strictly to agency organization. Accordingly, this rule is exempt from the prior notice-and-comment and delayed-effective-date requirements of 5 U.S.C. 553.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as revised by this final rule, represents the exclusive legal authority on this subject. No contrary rules or procedures are authorized. All existing or subsequent VA guidance must be read to conform with

this rulemaking if possible, or, if not possible, such guidance is superseded by this rulemaking.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501- 3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601 - 612). This final rule merely updates references to certain VA personnel referred to under 38 CFR part 53 and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Order 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing

costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a “significant regulatory action” requiring review by the Office of Management and Budget (OMB) as “any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order.”

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action as defined by Executive Order 12866.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any given year. This rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance program numbers and titles are: 64.005, Grants to States for Construction of State Home Facilities; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.016, Veterans State Hospital Care; 64.018, Sharing Specialized Medical Resources; 64.022, Veterans Home Based Primary Care; 64.024, VA Homeless Providers Grant and Per Diem Program; and 64.026, Veterans State Adult Day Health Care.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on December 4, 2012 for publication.

List of Subjects in 38 CFR Part 53

Administrative practice and procedure, Adult day health care, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Dated: December 5, 2012

Robert C. McFetridge,
Director of Regulation Policy and Management,
Office of General Counsel,
Department of Veterans Affairs.

For the reasons stated in the preamble, VA amends 38 CFR part 53 as follows:

PART 53—PAYMENTS TO STATES FOR PROGRAMS TO PROMOTE THE HIRING
AND RETENTION OF NURSES AT STATE VETERANS HOMES

1. The authority citation for part 53 continues to read as follows:

Authority: 38 U.S.C. 101, 501, 1744.

2. Amend § 53.10 by removing “Chief Consultant, Geriatrics and Extended Care” and adding, in its place, “Director, Geriatrics and Extended Care Operations”.

3. Amend § 53.11(a)(5) by removing “Chief Consultant, Geriatrics and Extended Care” and adding, in its place, “Director, Geriatrics and Extended Care Operations”.

4. Amend § 53.20(a) by removing “(114)”.

5. Amend § 53.30(b) by removing “Chief Consultant, Geriatrics and Extended Care” and adding, in its place, “Director, Geriatrics and Extended Care Operations”.

6. Amend § 53.40 by removing “Chief Consultant, Geriatrics and Extended Care (114)” and adding, in its place, “Director, Geriatrics and Extended Care Operations”.

7. Amend § 53.41 by:

a. Removing “Chief Consultant, Geriatrics and Extended Care” and adding, in its place, “Director, Geriatrics and Extended Care Operation”.

b. Removing “Chief Consultant” and adding, in its place, “Director”.

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